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carriers, it was not sufficient to show that the animals standing on the track were more likely to contract pneumonia than if standing in a barn, or in a car while it was moving, but it was necessary to show that the disease was contracted by reason of the fact that they were left standing on the side track.

Injuries to Oyster Bed by Public Improvement.—In the case of the Lewis Blue Point Oyster Cultivation Co. *v.* Briggs, 91 Northeastern Reporter, 846, a grant from the king of England, before the separation of the colonies from the mother country, of land for an oyster bed under navigable waters, to an individual, was held to be a grant of the crown's private property, subject to the public rights in the navigable waters held in trust by the crown for the people, and, under the right of conquest and the treaty of peace after the Revolutionary War, the title to the navigable waters went to the original states, and when the Constitution was adopted it became subject to the rights surrendered thereby to the United States. Judge Vann who wrote the opinion said that plaintiff had no right in the land that was not subject to the power of the United States to make improvements, without compensation, and that it ran the risk when it planted oysters that the crop might be interfered with whenever Congress decided to dig a channel or otherwise improve navigation. He intimated however that Congress was not apt to deal ungenerously with those who have good ground for relief.

Contract by Telephone Company in Restraint of Trade.—A telephone company contracted for the installment and maintenance of a private telephone exchange in defendant's hotel for nine years. It was stipulated that the apparatus should remain the property of the telephone company, and that no instruments and wires other than those furnished by it should be placed in the hotel or operated in connection with the exchange, and that such apparatus should not be used in connection with any other exchange than that of the company. The Court of Appeals of New York, in passing on the validity of such contract in Central New York Telephone and Telegraph Company *v.* Averill, 92 Northeastern Reporter, 206, concluded that the provision giving the telephone company the exclusive right to operate its exchange in the hotel was in partial restraint of trade in that it prevented persons having other telephone systems from connecting with the hotel, and, in view of the public interest which attaches to the telephone business by reason of its operation under a franchise and the nature of the business, such part of the contract was void.